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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/565,529	01/23/2006	Nikolai Alekseevich Baranov	4874-7004	9914
27123	7590	11/18/2008		
MORGAN & FINNEGAN, L.L.P. 3 WORLD FINANCIAL CENTER NEW YORK, NY 10281-2101			EXAMINER ZANELLI, MICHAEL J	
			ART UNIT 3661	PAPER NUMBER
			NOTIFICATION DATE 11/18/2008	DELIVERY MODE ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

PTOPatentCommunications@Morganfinnegan.com

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### Office Action Summary

**Application No.**

10/565,529

**Applicant(s)**

BARANOV ET AL.

**Examiner**

Michael J. Zanelli

**Art Unit**

3661

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 02 October 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 23-55 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 23 and 24 is/are rejected.
- 7) ☒ Claim(s) 25-55 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-85/86)  
Paper No(s)/Mail Date 8/12/08:10/2/08

- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date: \_\_\_\_\_
- 5) ☐ Notice of Inventor's Patent Application
- 6) ☐ Other: \_\_\_\_\_

### DETAILED ACTION

1. This is responsive to the communication filed 10/2/08. Claims 23-55 are pending.
2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
3. The IDS filed 8/12/08 and 10/2/08 have been considered as indicated. Note that those documents which have been lined through were previously cited in an IDS or PTO-892.
4. Claims 23 and 24 stand rejected under 35 U.S.C. 102(b) as being anticipated by Cabot et al. (6,177,888).

A. As per claim 23, Cabot discloses an aircraft vortex safety system (Fig. 2) which comprises aircraft parameter informational subsystem (28), vortex generator informational subsystem (32), ambient parameters informational subsystem (40), a subsystem (44) for generating vortex warnings, user subsystem (46, 48) for forming instructional signals for evading vortex (see col. 9:17-30) and communication means (i.e., wiring) which enables the subsystems to communicate with one another. The various subsystems are capable of providing various parameters necessary in tracking vortex trajectories and relating the trajectories to the position of the aircraft whereby the user is alerted and/or provided with information in avoiding the vortex (see cols. 4-7).

B. As per claim 24, as above whereby the subsystems are realized by onboard aircraft equipment.

5. Claims 25-55 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

6. **REMARKS**

A. With regards to the rejection of claims 23 and 24, the arguments presented have been carefully considered but are non-persuasive because the language relied upon for distinguishing over the Cabot patent is not found in the claims as presented in the amendment filed 10/02/08. In particular, pages 30-35 of the response quotes language that is not found in claim 23 as amended (see for example underlined text in section D:(i),(iii),(iv),(xi)).

Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

B. With regards to the "alleged" failure to acknowledge a foreign priority claim (page 36 of the response), there has not been a proper claim for foreign priority under 35 U.S.C. 119. This application is a national stage application filed under 35 USC 371 based on an international application (PCT). Applicant received a Notice (mailed 2/22/07) acknowledging acceptance of the application under this statute. No claim for priority to a foreign filed application was made in the international application or in the present national stage application. It appears applicant is confusing the two statutes.

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael J. Zanelli whose telephone number is (571) 272-6969. The examiner can normally be reached on Monday-Thursday 9:00 AM - 4:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas G. Black can be reached on (571) 272-6956. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Michael J. Zanelli/  
Primary Examiner  
Art Unit 3661